

SENTENCING COMMISSION

MINUTES

Committee:	SENTENCING COMMISSION ANNUAL MEETING
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Date:	Wednesday, Apr. 2, 2003	Time:	8:30am – 4:30 pm	Place:	Jordan Commons
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Members Present	Sheriff Phil Barney, Senator Gregory Bell, Paul Boyden, Judge Jeffrey Burbank, Blake Chard, Judge Terry Christiansen, K.S. Cornaby, Mary S. Corporon, Marlene Gonzalez, Ed McConkie, Chris Mitchell, Brian Namba, Judge Gregory K. Orme, Chief Ed Rhoades, Michael Sibbett, Sy Snarr, Rep. Mike Thompson, Kirk Torgenson, Russ Van Vleet, Judge Robert S. Yeates
Members Excused	Calvin Clegg, Senator Mike Dimitrich, John Hill, Judge Paul Maughan, G. Fred Metos,
Staff	Cliff Butter, Gary Franchina, Ron Gordon, Mike Haddon, Jo Lynn Kruse

Visitors	Don Blackburn, Larry Chatterton, Leo Lucey, Ray Wahl
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Agenda Item:	Welcome and Approval of Minutes
Notes:	Kay Cornaby called the meeting to order and welcomed new members, Sheriff Phil Barney who replaces Sheriff Bateman, Senator Greg Bell who replaces Senator Terry Spencer, and Judge Jeffrey Burbank, who replaces Judge Sainsbury. He also noted that the Commission has two new members not in attendance: Senator Mike Dimitrich who replaces Senator Alicia Suazo and Judge Paul Maughan who replaces Judge Mower. Mike Sibbett motioned to accept the December minutes. Judge Yeates seconded and the motion passed unanimously .

Agenda Item:	Guidelines Revision Subcommittee Report
Notes:	<p>Ron Gordon gave an overview of the Adult Sentencing and Release Guidelines. The current Guidelines were implemented in 1998 and are voluntary. The reason we have these guidelines is to communicate a general sentencing standard. Another reason is to balance between uniformity in sentencing with individualized sentences. Sentences ought to be proportionate to the crime. Guidelines can be used as a predictive tool and in policy making. When the commission was developing these guidelines, we found that sex offenses were treated differently enough from other types of crimes to warrant a separate matrix.</p> <p>Chris Mitchell made a presentation on issues discussed by the Guidelines Revision Subcommittee during the past year including financial crimes, a possible drug offense matrix and jail as a condition of probation. Some groups have indicated that the guidelines are not tough enough for financial crimes. The subcommittee feels that the proper route would be for these groups to pursue statutory changes rather than changes in the guidelines. The subcommittee did recommend adding an aggravating factor to the guidelines for financial crimes involving an unusually large amount of money or large number of victims.</p> <p>At the request of the Sentencing Commission, the subcommittee has also discussed the possible development of a drug offense matrix. Such a matrix might distinguish between possession, manufacturing, and distribution offenses. It might also reflect what types of treatment an offender</p>

	<p>has received in the past and this may be an aggravating or mitigating circumstance. Utah, along with three other states, has applied to NIJ for funding on a study of sentencing commissions and sentencing guidelines. If funded, the study would focus on drug crimes and would provide exactly the type of information needed to pursue a drug offense matrix. Judge Yeates motioned that we should wait to see if the NIJ study is funded before proceeding on the drug offense matrix. Russ Van Vleet seconded and it passed unanimously.</p> <p>The subcommittee has also discussed developing recommendations on jail time as a condition of probation. Chris explained that the number of felons receiving jail as a condition of probation has increased as has the average number of jail days ordered. Additionally, there is some disparity among counties on number of jail days ordered. Judge Christiansen motioned that it would be a good idea for this body to consider creating some sort of a sentencing matrix for jail as a condition of probation. There is a great difference between counties as it relates to sanctions regarding jail time imposed by judges. Sheriff Phil Barney seconded and it passed unanimously.</p>
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Agenda Item:	Juvenile Justice Subcommittee Report
Notes:	<p>Juvenile Sentencing Guidelines Overview – Ron Gordon</p> <p>The Sentencing Commission implemented juvenile guidelines in 1997. They are also voluntary. Unlike the adult guidelines, the juvenile guidelines are prescriptive, premised upon earlier intervention and more intensive supervision. They were developed to change sentencing practices. Like the adult guidelines, they were intended to increase equity, proportionality, and uniformity in sentencing. A sentence category that was established by the juvenile guidelines that did not exist before is called state supervision. It is an intermediate sentencing option between probation and community placement and was designed for those juveniles who are in need of an intensified level of supervision but are not yet ready for long term removal from the home. The goals were to increase contact with offenders, to structure and supervise the offender's time between 2pm and 7pm, the out of school hours, which are high delinquency hours. Additional goals include confronting substance abuse with increased testing and treatment, developing programs for juveniles who have been expelled or suspended from school, increasing family participation and expanding electronic monitoring statewide. The juvenile guidelines also list aggravating and mitigating factors.</p> <p>Guidelines Update – Russ VanVleet and Mike Haddon</p> <p>Mike Haddon gave an overview of the implementation and use of the Juvenile Sentencing Guidelines. Almost 13,000 sentences were examined between January 1999 and December 31, 2000. Eighty five percent of the cases fell within other sanction or probation. Another finding was that 100 more kids qualified for secure care than community placement. Forty percent of the sentences were consistent with what the guidelines recommended. Guidelines are not mirroring sentencing practices.</p> <p>Research – Mike Haddon</p> <p>The presentation by Mike was a research item requested by the Race and Ethnic Fairness Commission. The research indicates that minority offenders are more likely to receive an aggravated sentence, while non-minority offenders are more likely to receive a mitigated sentence. Mike indicated an expectation that the REFC will ask us to do further research. Aggravating and mitigating factors may be at play, and this is what will be studied next. Motion was made by Russ Van Vleet for the Juvenile Justice Subcommittee to re-examine the guidelines. Mary Corporon seconded and it passed unanimously.</p>

Agenda Item:	Sentencing and Correctional Resources – Ron Gordon
Notes:	The Sentencing Commission has a statutory duty to provide recommendations to the legislature, the governing judicial council in order to do several things including relate sentencing practices and correctional resources. Cliff Butter presented a statistical report on incarceration trends. Mike Sibbett motioned that the sentencing commission create a subcommittee to debate and spend time on ideas on how we can adjust criminal sentencing and take that information back to the legislature. Paul Boyden seconded and it passed unanimously .

Agenda Item:	Offender Management Initiative – Don Blackburn and Ron Gordon
Notes:	Don introduced Leo Lucey and Larry Chatterton who presented suggestions on dealing with parolees and probationers in the field. Leo spoke about preparing offenders to return to the community. More face to face contact is needed. Larry spoke about doing a better job of supervising with our limited resources. Re-entry involves three phases. The first phase is what happens in the institution i.e. institution based programs. The second phase involves working with offenders 30 to 90 days before they are released, treatment programs set up, getting a driver's license, employment services. And the third phase is community based programs, involving the family in the supervision process, community accountability boards "CAB."

Agenda Item:	Expungement – Mary Corporon
Notes:	Mary opened a discussion on expungement of multiple misdemeanor convictions. She indicated a desire to allow for expungement of multiple misdemeanor convictions after a waiting period. Such a change would not apply to DUI offenses or domestic violence. Currently, an offender convicted of a single felony may apply for expungement seven years after completion of sentence and payment of fines. However, an offender with multiple class B or C misdemeanors must wait fifteen years to have the misdemeanors expunged. In some circumstances, the misdemeanors may be non- expungeable. Chief Rhoades motioned for Mary to draft something and present it at a future date for a vote. Mike Sibbett seconded and it passed unanimously .

Agenda Item:	DUI Best Sentencing Practices Manual – Ron Gordon
	The Governor's Council on DUI requested that the Sentencing Commission develop a best practices manual for sentencing DUI offenders. The DUI subcommittee was formed last June and is nearing completion on their work. The manual will explain how sanctions and interventions are to work in tandem and will be a resource for judges, prosecutors, and probation officers. We hope to bring this work to the Sentencing Commission in June. We will make 500 copies of the manual and some CD versions. The Sentencing Commission will employ a marketing agency (Asay Marketing) to publish it for us.

Agenda Item	Legislation- Ron Gordon
Notes:	Ron briefly discussed the recently completed 2003 General Session and distributed a written summary of each bill that the Sentencing Commission took a position on during the session.

Agenda Item	Future Projects/Priorities
Notes:	Jesse Gallegos asked the Sentencing Commission to consider legislation that would limit the method of execution in Utah to lethal injection. The Sentencing Commission requested that Ron do some research on what methods other states use and which states authorized more than one method of execution.

The next meeting is scheduled for Wednesday, June 4, 2003 at noon, Matheson Courthouse, Conference Room A
Minutes prepared by Jo Lynn Kruse - Executive Secretary CCJJ